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EXAMINER	
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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Paper No. 0104

Application Number: 08/825,576
Filing Date: March 31, 1997
Appellant(s): PETITE, THOMAS D

Thomas, Kayden, Horstemeyer & Risley, LLP.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 3, 2003.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or

be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that claims 26-31 do not stand or fall together and provides reasons as set forth in 37 CFR § 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,319,364	WARAKSA ET AL.	6-1994
5,550,358	TAIT ET AL.	8-1996
5,714,931	PETITE ET AL.	2-1998

(10) Grounds of Rejection

The following grounds of rejection are applicable to the appealed claims:

Claims 26-28, 30 and 31 stand rejected under 35 U.S.C. § 103 as being unpatentable over Petite et al (US 5,714,913). This rejection is set forth in prior Office Action, Paper No. 30, mailed February 5, 2003.

Claim 29 stands rejected under 35 U.S.C. § 103 as being unpatentable over Tait et al (US 5,550,358) in view of Waraksa et al (US 5,319,364). This rejection is set forth in prior Office Action, Paper No. 30, mailed on February 5, 2003.

(11) Response to Argument

In the paragraph bridging pages 7-8 and the first full paragraph on page 8 of the brief, appellant contends that Petite et al do not disclose, teach, or suggest the use of a low-power transmitter. Appellant cites lines 13-18 on page 10 of the instant specification. In lines 13-18 on page 10, transmitter 20 is preferably an **extremely** (emphasis added by the examiner) low power transmitter. The specification lacks a standard for determining/measuring the degree of power intended (low) in the claims. Low is a relative term and the use of the terminology "low-power transmitter" in claims 29 and 30 does not distinguish the claimed transmitter over the wireless transmitter of Petite et al.

In the second full paragraph on page 8 of the brief, appellant contends that Petite et al do not disclose, teach or suggest data formatting logic configured to format the user information data. The transmitter device (120) of Petite et al contains data formatting logic/an encoder connected to the memory (ROM) and a controller to format/encode the user information data for transmission by the transmitter (230). See the two sentences in lines 3-7 of column 3, the paragraph bridging columns 3 and 4, the second full paragraph in column 4, and claim 4 of Petite et al. The user information is formatted/encoded in the transmitter device (120) and is decoded

in the transceiver (130).

In the paragraph bridging pages 8 and 9 of the brief, appellant contends that Petite et al do not to disclose, teach or suggest data formatting logic disposed to receive an output from both the mechanism for reading information from a magnetic strip of a bank card and the receiver. The transceiver (130) of Petite et al is located within an automated teller banking machine (column 4, lines 22-25 and column 5, lines 30-32). The automated teller banking machine (ATM) inherently contains data formatting logic disposed to receive an output from the mechanism for reading information from a magnetic strip of a bank card. The transceiver (130) within the ATM comprises data formatting logic/decoder (310) disposed to receive an output from receiver (305). See lines 25-29 of column 4.

In the sentence in lines 1-4 on page 10 of the brief, appellant contends that Petite et al fail to disclose, teach or suggest an automated teller banking machine with logic to verify accounted information for a user and an account identified by user identification information. Such verifying logic is a necessary part of an automatic teller banking machine, without which the automated teller banking machine would be inoperative.

In the first paragraph on page 11 of the brief, appellant contends that Tait et al in view of Waraksa et al fails to disclose, teach, or suggest that the remote access device (10B) transmits a function code in direct response to manual depression of the user-depressible transmit button, wherein the function code defines a function for automatically accessing the automated financial transaction machine. The obviousness of the inclusion of a function code in the signal transmitted by the remote access device of Tait et al (Fig. 5) was affirmed in the Board Decision

of March 21, 2002, Paper No 25. See lines 13-19 on page 12 of the Board Decision. With respect to automatically accessing the automated financial transaction machine in direct response to the manual depression of user-depressible transmit button (switch 16B), attention is directed to the sentence in lines 8 and 9 of column 6 of Tait et al. When using the remote access device (10B) of Fig. 5, the transaction is fully mechanized for the vendor.

The reproduction of the rejection of claim 29 on page 11 of the brief is incomplete. The last section of the rejection is missing. The Board's attention is directed to the penultimate paragraph on page 4 of the final rejection, Paper No. 30.

In the first two lines on page 16 of the brief, appellant contends that Petite et al do not disclose, teach, or suggest the use of a low-power transmitter. The Board's attention is directed to the first paragraph in this section of the answer.

In the second full paragraph on page 16 of the brief, appellant contends that Petite et al fail to disclose, teach, or suggest a remote access unit having data formatting logic, wherein a formatted message comprises a unique function code associated with each distinct user-depressible button. With respect to the data formatting logic, the Board's attention is directed to the second paragraph in this section of the answer. The remote access unit (120) of Petite et al is provided with a plurality of user-depressible buttons, each associated with a different function (column 3, lines 24-43). Transmitting a specific function code along with the user identification data upon the depression of each user-depressible button would have been obvious to one with ordinary skill in the art so that specific function(s) could be performed (police assistance, medical assistance, fire or automobile trouble). Since claim 30 is directed to a remote access unit

(see the preamble), the details concerning the automated financial transaction machine do not add patentable weight to or distinguish the claimed remote access unit from the remote access unit of Petite et al.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

F. L. Evans
Primary Examiner
Art Unit 2877

fle
January 14, 2004

Conferees:
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